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6 IN THE UNITED STATES DISTRICT COURT

7 FOR THE NORTHERN DISTRICT OF CALIFORNIA

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9 CENTER FOR FOOD SAFETY, et al.,

10 Plaintiffs, No. C 08-04038 JSW

11 v.

12 THOMAS J. VILSACK, et al.,

NOTICE OF QUESTIONS

13 Defendants.

14
15 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD, PLEASE TAKE
16 NOTICE OF THE FOLLOWING QUESTIONS FOR THE HEARING SCHEDULED ON
17 OCTOBER 22, 2010 AT 9:00 A.M.:

18 The Court has reviewed the parties' papers and, thus, does not wish to hear the parties
19 reargue matters addressed in those pleadings. If the parties intend to rely on authorities not
20 cited in their briefs, they are ORDERED to notify the Court and opposing counsel of these
21 authorities reasonably in advance of the hearing and to make copies available at the hearing. If
22 the parties submit such additional authorities, they are ORDERED to submit the citations to the
23 authorities only, with pin cites and without argument or additional briefing. *Cf.* N.D. Civil
24 Local Rule 7-3(d). The parties will be given the opportunity at oral argument to explain their
25 reliance on such authority. The Court suggests that associates or of counsel attorneys who are
26 working on this case be permitted to address some or all of the Court's questions contained
27 herein.

28 The parties shall each have 20 minutes to address the following questions:

1. 1. Do Defendants and/or Intervenor-Defendants object to characterizing this motion as one
2. for preliminary injunction as opposed to one for a temporary restraining order. If so, on
what basis?
3. 2. The Court is contemplating holding an evidentiary hearing:
 4. (a) Specifically what material facts do Intervenor-Defendants contend are in dispute,
thus requiring an evidentiary hearing?
 5. (b) If the Court were to hold an evidentiary hearing on the requested injunction, how
much time would each party request? What witnesses would each parties call
and what would be the scope of their testimony?
6. 3. What percentage of the crops planted pursuant to the permits were planted by October 9,
7. 2010, when Plaintiffs filed this lawsuit? What percentage had by planted by October 10,
8. 2010, when Plaintiffs filed their application for a temporary restraining order?
9. 4. Although a bond might not be required in this case if it would “preclude[] effective and
10. meaningful appellate review,” *Friends of the Earth, Inc. v. Brinegar*, 518 F.2d 322, 323
11. (9th Cir. 1975), “Plaintiffs ... have the burden of demonstrating that posting such a bond
would cause undue hardship.” *See Earth Island Institute v. U.S. Forest Service*, 2006
WL 3359192, *1 (E.D. Cal. Nov. 20, 2006). By what date could Plaintiffs submit
declarations establishing that posting a non-nominal bond would cause undue hardship?

12. 13. Dated: October 20, 2010


14. JEFFREY S. WHITE
15. UNITED STATES DISTRICT JUDGE